
HOUSE BILL No. 1110

DIGEST OF INTRODUCED BILL

Citations Affected: IC 9-29-17; IC 13-11-2; IC 13-20-17.7.

Synopsis: Recycling of mercury components in motor vehicles. Requires a manufacturer of motor vehicles offered for sale in Indiana to develop and implement a plan to remove, replace, collect, and recover mercury switches from motor vehicles. Prohibits the sale of motor vehicles that contain mercury-added components, beginning with the 2009 model year. Provides for certain exceptions. Establishes the mercury switch removal fund to implement mercury switch removal plans. Imposes mercury switch removal fees on vehicle registrations and titles, and requires deposit of those fees in the fund.

Effective: July 1, 2006.

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January 5, 2006, read first time and referred to Committee on Environmental Affairs.

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Introduced

Second Regular Session 114th General Assembly (2006)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2005 Regular Session of the General Assembly.

HOUSE BILL No. 1110

A BILL FOR AN ACT to amend the Indiana Code concerning environmental law.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 9-29-17 IS ADDED TO THE INDIANA CODE AS
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2006]:
4 **Chapter 17. Mercury Switch Removal Fees**
5 **Sec. 1. (a) A fee of two dollars (\$2) is imposed on the registration**
6 **of a motor vehicle that is subject to:**
7 **(1) registration; and**
8 **(2) a registration fee;**
9 **under IC 9-18.**
10 **(b) The fee imposed by subsection (a) is payable to the bureau**
11 **at the time of registration.**
12 **(c) The bureau may issue a registration for a motor vehicle**
13 **described in subsection (a) only if the fee imposed by subsection (a)**
14 **for the registration of the motor vehicle is paid.**
15 **Sec. 2. (a) A fee of one dollar (\$1) is imposed on the titling of a**
16 **motor vehicle by a motor vehicle dealer for the purpose of:**
17 **(1) selling the motor vehicle; or**



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(2) putting the motor vehicle in rental, leasing, or demonstrating service.

(b) The fee imposed by subsection (a) is payable to the bureau at the time of titling.

(c) The bureau may issue a title for a motor vehicle described in subsection (a) only if the fee imposed by subsection (a) for the titling of the motor vehicle is paid.

Sec. 3. The bureau shall deposit fees collected under this chapter in the mercury switch removal fund established by IC 13-20-17.7-10.

SECTION 2. IC 13-11-2-66.9 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 66.9. "End of life vehicle", for purposes of IC 13-20-17.7, means a motor vehicle that is:**

(1) sold; or

(2) otherwise conveyed;

to a motor vehicle recycler or scrap recycling facility for the purpose of recycling.

SECTION 3. IC 13-11-2-71 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 71. "Environmental management laws" refers to the following:

(1) IC 13-12-2 and IC 13-12-3.

(2) IC 13-13.

(3) IC 13-14.

(4) IC 13-15.

(5) IC 13-16.

(6) IC 13-17-3-15, IC 13-17-8-10, IC 13-17-10, and IC 13-17-11.

(7) IC 13-18-12 and IC 13-18-15 through IC 13-18-20.

(8) IC 13-19-1 and IC 13-19-4.

(9) IC 13-20-1, IC 13-20-2, IC 13-20-4 through IC 13-20-15, **IC 13-20-17.7**, and IC 13-20-19 through IC 13-20-21.

(10) IC 13-22.

(11) IC 13-23.

(12) IC 13-24.

(13) IC 13-25-1 through IC 13-25-5.

(14) IC 13-30, except IC 13-30-1.

SECTION 4. IC 13-11-2-128.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 128.2. (a) "Mercury-added component", for purposes of IC 13-20-17.7, means a motor vehicle component that:**

(1) contains mercury; and

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(2) is added to a motor vehicle to:

(A) provide a specific characteristic, appearance, or quality; or

(B) perform a specific function.

(b) The term includes motor vehicle:

(1) switches;

(2) sensors;

(3) lights; and

(4) navigation systems;

that meet the definition set forth in subsection (a).

SECTION 5. IC 13-11-2-128.8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 128.8. "Mercury switch", for purposes of IC 13-20-17.7, means:**

(1) a motor vehicle light switch; or

(2) an anti-lock brake system switch;

that contains mercury and is installed in a motor vehicle by a motor vehicle manufacturer.

SECTION 6. IC 13-11-2-130.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 130.7. "Motor vehicle in commerce", for purposes of IC 13-20-17.7, means a motor vehicle that is:**

(1) offered for sale by a motor vehicle dealer; or

(2) registered to be operated on public roads and highways.

SECTION 7. IC 13-20-17.7 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]:

Chapter 17.7. Mercury Components in Motor Vehicles

Sec. 1. (a) A manufacturer of motor vehicles engaged on July 1, 2006, in the business of offering for sale in Indiana motor vehicles that contain mercury switches shall:

(1) develop a plan, individually or as part of a group, to:

(A) remove;

(B) replace;

(C) collect; and

(D) recover;

mercury switches from motor vehicles in commerce and end of life vehicles;

(2) submit the plan to the commissioner before January 1, 2007; and

(3) implement the plan as required under section 5(b) of this

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chapter.

(b) A manufacturer of motor vehicles that commences business after July 1, 2006, offering for sale in Indiana motor vehicles that contain mercury switches shall:

- (1) develop a plan, individually or as part of a group, that conforms with the plan required under subsection (a);
- (2) submit the plan to the commissioner not later than six (6) months after the commencement of business; and
- (3) implement the plan as required under section 5(b) of this chapter.

(c) For:

- (1) motor vehicles in commerce, a plan developed under subsection (a) or (b) must provide for the:
 - (A) removal, collection, and recovery of mercury switches; and
 - (B) replacement of mercury switches with alternative switches that do not contain mercury, if possible; and
- (2) end of life vehicles, a plan developed under subsection (a) or (b) must provide for the removal, collection, and recovery of mercury switches.

Sec. 2. A plan described in section 1 of this chapter must include the following:

- (1) An education program to inform the public and other persons about the purposes of the mercury switch collection program and how to participate in it.
- (2) Procedures for:
 - (A) implementing the plan; and
 - (B) financing the plan to the extent required under section 4 of this chapter.
- (3) Documentation indicating the willingness of all necessary parties to implement the plan.
- (4) Information identifying:
 - (A) the make, model, and year of motor vehicles containing mercury switches; and
 - (B) with respect to each mercury switch:
 - (i) a description;
 - (ii) the location; and
 - (iii) a safe, cost effective, and environmentally sound method for removal.
- (5) A mercury switch recovery rate goal of at least ninety percent (90%) for switches that are not inaccessible because of damage to motor vehicles containing the mercury switches.

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(6) A description of the performance measures to be used and reported by a manufacturer of motor vehicles to demonstrate that the plan is meeting the recovery rate goal established under subdivision (5) and other measures of program effectiveness, including the following:

(A) The number of mercury switches collected from motor vehicles in commerce and end of life vehicles.

(B) The amount of mercury collected.

(C) The number of motor vehicles containing mercury switches.

(D) The number of motor vehicles processed for recycling.

(7) A description of additional or alternative actions that must be implemented to improve the plan and its operation if the recovery rate goal established under subdivision (5) is not met.

(8) Procedures for storing the mercury collected and recovered from motor vehicle switches if environmentally appropriate technologies for storing the mercury are not available.

Sec. 3. (a) In developing a removal, replacement, collection, and recovery plan under section 1 of this chapter, a motor vehicle manufacturer shall, to the extent practicable, use:

(1) existing:

(A) dealerships;

(B) service stations;

(C) inspection stations;

(D) repair shops; and

(E) other facilities;

that regularly service or inspect motor vehicles in commerce; and

(2) existing vehicle recycling facilities for end of life vehicles.

(b) If a manufacturer does not use the facilities described in subsection (a), the manufacturer shall include in its plan the reasons for establishing separate facilities.

Sec. 4. A motor vehicle manufacturer shall pay the cost of the removal, replacement, collection, and recovery plan for mercury switches implemented by the manufacturer under section 1 of this chapter to the extent that the cost is not paid under section 10 of this chapter. Costs under this chapter include the cost of the following:

(1) Labor to remove or replace mercury switches reimbursed at the prevailing rate at which motor vehicle manufacturers

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reimburse automotive dealers for replacing faulty switches under a manufacturer and dealer warranty program.

(2) Training.

(3) Packaging for transporting mercury switches to recycling, storage, or disposal facilities.

(4) Shipping of mercury switches to recycling, storage, or disposal facilities.

(5) Recycling, storage, or disposal of mercury switches.

(6) Public education materials and presentations.

(7) Maintenance of all appropriate systems and procedures to protect the environment from mercury contamination.

Sec. 5. (a) The commissioner shall do the following:

(1) Not more than thirty (30) days after receiving a plan developed by a motor vehicle manufacturer under section 1 of this chapter, issue a public notice and solicit public comment on the manufacturer's plan.

(2) Not more than ninety (90) days after receiving a manufacturer's plan, determine whether the entire plan complies with this chapter and:

(A) if the entire plan complies with this chapter, approve the plan in its entirety;

(B) if no part of the plan complies with this chapter, reject the plan in its entirety; or

(C) if only part of the plan complies with this chapter, approve that part and reject the rest of the plan.

(b) If a plan is approved in its entirety under subsection (a)(2)(A), the motor vehicle manufacturer shall begin implementing the plan as soon as practicable. If an entire plan is rejected under subsection (a)(2)(B), the commissioner shall inform the motor vehicle manufacturer why the plan was rejected, and the manufacturer shall submit a new plan not more than thirty (30) days after the commissioner informs the manufacturer that the entire plan was rejected. If a plan is approved in part and rejected in part under subsection (a)(2)(C), the manufacturer shall immediately implement the approved part of the plan and submit a revision of the rejected part of the plan not more than thirty (30) days after the commissioner informs the manufacturer of the commissioner's partial approval. The commissioner shall review a manufacturer's revised plan not more than thirty (30) days after receiving the revised plan.

(c) Not more than two hundred forty (240) days after receiving a plan developed by a motor vehicle manufacturer under section

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1 of this chapter, the commissioner shall complete, on behalf of the manufacturer, any part of the plan that has not yet been approved.

(d) After a motor vehicle manufacturer's plan has been approved under this section, the commissioner shall:

(1) review the plan three (3) years after the original date of approval of the plan and every three (3) years thereafter; and

(2) require the motor vehicle manufacturer to modify the plan as appropriate.

Sec. 6. (a) A person that sells, gives, or otherwise conveys ownership of an end of life vehicle to a scrap recycling facility for recycling shall remove all mercury switches from the vehicle before delivering the vehicle to the facility.

(b) Notwithstanding subsection (a), a scrap recycling facility may accept an end of life vehicle containing mercury switches that has not been intentionally flattened, crushed, or baled if the scrap recycling facility assumes responsibility for removing the mercury switches.

(c) A person may not represent that mercury switches have been removed from a motor vehicle being sold or otherwise conveyed for recycling if the person has not removed the mercury switches from the vehicle.

Sec. 7. Beginning with the 2009 model year, a motor vehicle that contains a mercury-added component may not be offered for sale in Indiana.

Sec. 8. (a) Notwithstanding section 7 of this chapter, a motor vehicle that contains a mercury-added component is exempt from section 7 of this chapter if the manufacturer of the motor vehicle submits to the commissioner a written application that:

(1) is in a form acceptable to the commissioner;

(2) states the need for the exemption and the legal basis for the exemption;

(3) specifies that the use of the mercury-added component:

(A) is necessary:

(i) to comply with federal or state health or safety requirements; or

(ii) for purposes of national security; or

(B) will substantially increase public health and safety, considering any effects the component may have on overall public safety on the roads;

(4) documents that:

(A) a technically feasible alternative to the use of the mercury-added component is not available; and

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(B) a comparable component that does not contain mercury is not available at a reasonable cost; and

(5) includes a description of how:

(A) the manufacturer will ensure that a removal, collection, and recovery system exists; and

(B) the system will be funded while the motor vehicle is in commerce and at the end of the vehicle's useful life.

(b) The commissioner shall:

(1) issue public notice and solicit public comments on an application submitted under subsection (a); and

(2) accept or reject the application not more than ninety (90) days after receiving the application.

(c) An exemption granted by the commissioner under this section:

(1) is valid for not more than two (2) years; and

(2) may be renewed for not more than two (2) years.

(d) If exempted under this section, a motor vehicle that contains a mercury-added component must be labeled by the manufacturer in a manner that clearly informs purchasers that:

(1) mercury is present in the vehicle; and

(2) the mercury-added component may not be disposed of until the mercury is:

(A) removed, reused, recovered, or properly disposed of as a hazardous waste; or

(B) otherwise managed to ensure that the mercury does not become mixed with other solid waste.

(e) The label required under subsection (d) must:

(1) identify the mercury-added component with sufficient detail so that the mercury-added component may be readily located for removal;

(2) be placed on the doorpost of each motor vehicle that contains the mercury-added component; and

(3) be constructed of materials that are sufficiently durable to remain legible for the useful life of the vehicle.

Sec. 9. A manufacturer that offers motor vehicles for sale in Indiana, when designing motor vehicles and components, shall:

(1) to the maximum extent practicable, eliminate hazardous substances from the vehicles;

(2) ensure that the vehicles are designed to be recycled in a safe, cost effective, and environmentally sound manner, using existing technologies and facilities; and

(3) if a vehicle is found to present environmental risks that

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1 make the vehicle uneconomical to recycle, make appropriate
2 design or manufacturing changes.

3 **Sec. 10. (a) The mercury switch removal fund is established for**
4 **the purpose of implementing this chapter. The department shall**
5 **administer the fund.**

6 **(b) The fund consists of the following:**

7 (1) Money deposited in the fund under IC 9-29-17.

8 (2) Money appropriated by the general assembly.

9 (3) Donations, grants, and money received from any other
10 source.

11 **(c) The expenses of administering the fund shall be paid from**
12 **money in the fund.**

13 **(d) The treasurer of state shall invest the money in the fund not**
14 **currently needed to meet the obligations of the fund in the same**
15 **manner as other public money may be invested.**

16 **(e) Money in the fund at the end of a state fiscal year does not**
17 **revert to the state general fund.**

18 **(f) The department shall use money in the fund to pay expenses**
19 **of implementing mercury switch removal plans developed under**
20 **section 1 of this chapter.**

21 **Sec. 11. The board shall adopt rules under IC 4-22-2 and**
22 **IC 13-14-9 to:**

23 (1) establish a method for allocation of money in the mercury
24 switch removal fund for the implementation of plans
25 developed under section 1 of this chapter; and

26 (2) otherwise implement this chapter.

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